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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-fifth session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 4 August 1993, at 10 a.m.

Chairman: Mr. AL-KHASAWNEH

later: Mr. YIMER

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The meeting was called to order at 10.30 a.m.

ORGANIZATION OF WORK (continued)

1. The CHAIRMAN announced that the East European members group had nominated Mr. Boutkevitch as their representative on the Working Group on Detention.

2. Mr. HATANO said that the Asian members had nominated Mr. Sacher as their representative on the same Working Group.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5) (continued)

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (continued)

(b) MONITORING THE TRANSITION TO DEMOCRACY IN SOUTH AFRICA (E/CN.4/Sub.2/1993/11)

3. Mrs. ATTAH, Special Rapporteur, introducing her preliminary report on monitoring the transition to democracy in South Africa (E/CN.4/Sub.2/1993/11), said that she had made contact in New York with key United Nations bodies seized with the question of apartheid and had consulted relevant special reports, newspaper and magazine articles and other published material relevant to her mandate. Time had not, however, permitted her to consult the main actors inside or outside South Africa.

4. In chapter I of her report, she had attempted to bring into focus relevant political events which had taken place since February 1990. That date had been chosen because the release of Mr. Mandela and the unbanning of the political parties had been the first clear indication of the intention of the Government of South Africa to dismantle apartheid. Several apartheid laws had gradually been repealed after important meetings between the African National Congress (ANC) and the Government, starting with the lifting of the state of emergency, followed by the agreements on the phased release of political prisoners and the return of about 30,000 South African exiles.

5. It was, however, to be regretted that, although many discriminatory laws, such as the Separate Amenities Act, the Land Act, the Population Registration Act and the Group Areas Act, had been repealed or amended by the Government, the effects of those laws still persisted.

6. The establishment of CODESA I followed by CODESA II, in which the Government and 18 political parties and homelands in South Africa had participated, had made it possible to bring the members of the main political organizations together to discuss the future of their country, without discrimination on racial grounds. CODESA had also renounced violence and set up machinery to deal with violence. Five working groups had been established. The working group on the constitution-making process had not been able to reach agreement on a number of issues for reasons stated in the report. Those issues were still under consideration.

7. After the breakup of talks and following the escalation of violence, in particular the Boipatong incident on 17 June 1992, other political parties,

including the Pan Africanist Congress (PAC), the Azania People's Organization (AZAPO), and the Conservative Party had been persuaded to join in the political discussions. In March 1993, the multi-party planning conference had included 26 political groups and homelands and the conference had agreed to begin multi-party negotiations towards a new constitution; the Conservative Party had abstained. On 16 May 1993 the parties had agreed to hold the first non-racial elections within 12 months, although the IFP and other conservative parties had disagreed regarding the setting up of an election date until certain conditions, notably the question of regionalism, had been decided.

8. The decision to fix an election date was important because it implied a commitment to seek an early agreement on a constitution for a democratic South Africa and the formation of a transitional Government. It was envisaged that, at the end of the interim Government's five-year term, elections would be held under a new constitution which would usher in full democracy. Provided all went well with the multi-party negotiations, it was foreseen that a "Transitional Executive Council" (TEC) would be in place by the autumn of 1993 when Parliament reconvened. It was expected that the TEC would take decisions on several issues, including the security forces, State media and an electoral commission.

9. On 2 July 1993, the "sufficient consensus" parties had agreed to hold the first multi-racial elections on 27 April 1994. The Inkatha Freedom Party (IFP), the Conservative Party and the Kwazulu Party had pulled out of the multi-party negotiations. The IFP had done so because of its insistence on settling the issue of the devolution of powers to the regions before discussing the outlines of the constitution. On the other hand, the Conservative Party requested a homeland ("self-determination") for the whites only, otherwise threatening secession. The other smaller parties were not yet ready for any election that would exclude them from an interim Government. The conservative parties rejected a strong central Government favoured by the others. The Government had however persuaded the three parties which had staged a walkout to rejoin the negotiations.

10. A new draft constitution had been tabled on 26 July 1993, for consideration by the multi-party conference, after a weekend of particularly wild racial violence aimed at disrupting the talks. The debate on the draft constitution was continuing and was expected to last for months. During the weekend of 30 July to 2 August 1993, extreme violence had broken out in townships around Johannesburg; Archbishop Tutu's call for a United Nations peace-keeping force had emphasized the seriousness of the situation.

11. The ANC, although a major political party, had given up many of its avowed positions in an attempt to reach consensus agreements; that had led to problems for the ANC leadership. It would however be necessary for all parties to move towards necessary compromises that would lead the country forward towards peace and mutual coexistence. Apartheid must not be allowed to be metamorphosed into small components of its former self.

12. Chapter II of the report dealt extensively with the question of violence and what the Government was doing about it. The situation was very alarming both for South Africa and for the international community, which should do all in its power to contain the situation before it developed into a civil war.

13. Political violence was unfortunately on the increase and had had debilitating effects on the talks for democracy while violating the right to life and security. It had also stalled the voluntary repatriation of South African exiles. Violence was taking place everywhere, in townships, men's hostels, the countryside, buses, trains, taxis, hotels and lately in a church; its perpetrators and victims were multi-racial and its motives were various.

14. One thing was sure however; political violence was feeding the feeling of mistrust among the various political groups and races. The Boipatong massacre of June 1992 had been aimed at disrupting the talks on CODESA II, just as those between 25 July and 2 August 1993, in the Cape Town church and in the townships had been directed against the constitutional talks which had begun on 28 July 1993. On the other hand, the senseless assassination of Chris Hani, the ANC military wing commander, who had been a moderating influence on black youth, had been intended to provoke those youths to violence.

15. While political violence was widespread, it was particularly endemic in the Witwaterstrand/Vaal and Natal/Kwazulu regions. A great many of the deaths could also be attributed to the political rivalry between the supporters of the ANC and IFP. The meeting held on 23 June 1993 between Mr. Mandela and Chief Buthelezi with a view to containing their supporters had not yet produced the desired results as the killings were continuing.

16. The complicity of the security forces (Third Force) in the violence in the townships must also not be forgotten nor that of the township police. Unless and until the Government was willing and able to stop those forces from joining in the violence, it was to be doubted whether others would feel morally obliged to do so. Urgent action needed to be taken by the Government immediately to root out known killers from the security forces; to engage new officers and retrain existing ones. That would be the first step towards building confidence between the State and the people. The Civil Service and public service also needed to be renewed through multi-racial recruitment.

17. The Goldstone Commission's recommendations must be implemented urgently. The proliferation of sophisticated weaponry in South Africa should be cause for great alarm to every peace-loving person, it was important that the unfortunate experience of the former Yugoslavia should not be repeated. One of the complaints of the population was that perpetrators of assassinations had never been prosecuted. Details of the violence were contained in the report. The death toll for May 1993 had been 339 and for April 259, according to the non-governmental organization South African Human Rights Commission.

18. Chapter III of the report analysed the situation of economic and social rights in South Africa. Paragraphs 44 to 50 reviewed the social and economic wrongs caused to black Africans by the apartheid system. South African blacks would continue to suffer disadvantages in every sector - education, health, housing, labour and professional training - until the Government took urgent measures to implement equalization programmes. Land reform had yet to address the vexed question of ownership of agricultural land, 87 per cent of which was reserved for the whites. Instead, the Government was under pressure to exempt certain groups from the provisions of the March 1992 Government White Paper on

Land Measures Act. Black youths also complained that their schools were far below the standards prevailing in schools for whites. In essence, the goodwill reflected in the recent laws repealing apartheid was yet to materialize. It was not therefore surprising that the majority of blacks looked forward to an interim Government which, they trusted, would be more forthcoming in implementing the new laws.

19. The human rights instruments which South Africa had acceded to recently were listed in paragraph 64 while paragraph 66 set out a bold step taken by the Government towards promoting women's rights.

20. Chapter IV dealt with impediments to the democratization of South Africa and ways of eliminating them. The subject of violence in South Africa as a major factor in impeding the exercise of political rights and democracy was analysed in paragraphs 68 to 73. Another obstacle, discussed in paragraphs 73 to 78, was the resilience of apartheid ideas and practices which continued to persist notwithstanding the abolition of apartheid laws; that phenomenon had been reflected in the ambivalence of the Government and other conservative parties during the constitutional negotiations and would be more manifest as the talks touched on the bill of rights. It was understandable that those who had enjoyed wide privileges under the apartheid system would be loath to see them abrogated or curtailed. Those groups included whites, coloured, security forces, homeland government officials and traditional authorities which had formed a body called the Concerned Group of South Africans (COSAG). In May 1993 a new all-whites group called the Afrikaner Volksfront (Afrikaner Peoples Front) had been formed under the leadership of South African generals and had called for a homeland, carved out of the north-eastern province of Transvaal, for whites only. That demand had further heightened political tension. An additional impediment was the very lack of democratic experience among the majority of the black population; that impediment deserved to be addressed with urgency.

21. Chapter V highlighted the important role which the international community had carried out with admirable success in hastening the dismantling of apartheid. For reasons detailed in the report, the United Nations and its agencies would continue to be relevant well after an interim Government was in place. In that connection she wished to acknowledge the excellent work of the United Nations Special Committee against Apartheid, the United Nations Education and Training Programme for Southern Africa, the United Nations Trust Fund for South Africa, the Centre for Transnational Corporations and the Committee against Apartheid in Sports. Most of those committees should continue in new and special relationships with the yet to be established interim government in order to strengthen the newly fledged full democracy in South Africa. She also wished to acknowledge the valuable and continuing support of the Organization of African Unity and of the Commonwealth which had continued to use its special relationship with South Africa to advantage.

22. What had been accomplished to date would not have been possible without economic sanctions and in that connection she wished to acknowledge the excellent contributions of her predecessor, Mr. Khalifa.

23. In connection with the conclusions drawn in Chapter VI of her report, she wished only to emphasize that apartheid could not be officially declared dead

until a new constitution was in place. She had not made any recommendation as to whether economic sanctions should continue because she believed that the international community should take its cue from the South Africans themselves. She also believed that urgent action should be taken in favour of black youths in South Africa who had lost so many years of their youth and opportunities fighting against the apartheid system. If nothing was done, the international community would have to live with the consequences. South Africa was potentially a great country, but it would not attain greatness until all the races eschewed violence, accommodated each other and lived in confidence as a united and democratic country. The international community should continue to help the new South Africa to achieve its goals.

24. She looked forward to the opportunity of discussing the aspirations of the South Africans with them and in their country and intended to take up developments from August 1993 in her next report.

25. In conclusion, she wished to thank the Centre for Human Rights and her colleagues on the Sub-Commission for their great assistance and the confidence they had shown in her.

26. Mr. KHALIFA said that just when humanity seemed to have found itself at home with human rights there had been a sudden eruption of every type of violence, greed, criminality and trafficking in every evil. Bosnia was the divine tragedy of the current age and reflected a unique fiendish mixture of genocide and death. The question arose as to how such hideous developments could take place, particularly in Europe at the end of the twentieth century. The answer was simple. The Bosnia syndrome was the embodiment of the basic elements of the new international order. The cold war had kept the world in balance; there had been some kind of accountability between the great Powers. With the collapse of the Soviet Union, the so-called right of humanitarian intervention had started to emerge in the shape of the right to act freely without fear of consequences. The West, having won the cold war and then the Gulf war, had then been faced with Bosnia where it could have won if the same principles as those used to justify the Gulf war had been applied. In Iraq, it had been necessary to destroy a country in order to save it. In Somalia, there had been no hesitation to strike; a colonial war was being fought by proxy.

27. However, Bosnia was a different place entirely and intervention was not "doable" in the words of the United States Chief-of-Staff who had stated that where a decisive win was not guaranteed, intervention was not "doable". A new theory had evolved to conceal selectivity.

28. A state of lawlessness and an absence of legitimacy prevailed in Bosnia and Herzegovina, making it difficult to promote order and justice, to resist armed zealots or to protect innocent civilians. Matters had been made worse by ill-defined, so-called humanitarian intervention and the failure to comply with the rules of international law. The Secretary-General of the United Nations had stated in an interview at the end of 1992 that without United States leadership and power the United Nations lacked muscle and with it, the United Nations lost its independent identity.

29. Bosnia and Herzegovina was being forced at gunpoint to agree to its own dismemberment thanks to European manoeuvres, United States oscillation, Lord Owen's s[illegible]f-confessed realism and the United Nations arms embargo.

30. Turning to agenda item 5 (b) he said that the preliminary report on monitoring the transition to democracy in South Africa, submitted by the Special Rapporteur (E/CN.4/Sub.2/1993/11), was an admirable document which provided a background to the present situation as well as information. Quite rightly, the report had not touched upon the transition to democracy in South Africa, which would have been somewhat premature, and instead concentrated on the dismantling of the system of apartheid, and on what vestiges remained.

31. The report was fully justified, however, in mentioning the obstacles impeding the transition to democracy, not least of which was the level of communal violence. In that regard, it was essential to bear in mind the fact that the Government of South Africa had always instigated violence as a means of stalling the entire process. For a long time, the Government had been making secret deals with the Inkatha Freedom Party and was prepared at any moment, even before the elections scheduled for April 1994, to use that alliance to disrupt or derail the process. The commander of the personal regiment of King Goodwill Zwelithini had remarked that the police should go to the beach and fish for two days, leaving the Inkatha Freedom Party and the African National Congress to fight it out, and then on the third day go and clean up the mess. President De Klerk had been driven to the new initiatives by economic necessity. The South African economy was mired in its longest recession in 90 years. Trying to build up democracy in the face of such economic difficulties and glaring inequalities was infinitely more difficult. The Special Rapporteur would not be deceived by the efforts being made to improve South Africa's image, whereas its soul was unchanged.

32. South Africa had allegedly dismantled its arsenal of atomic bombs but, unfortunately, not in the interests of peace. Quite simply, they were no longer needed and it was wished to prevent the remote possibility of them falling into the hands of a black Government.

33. It was naive to think that South Africa was going to change. There was no reason why it should. It was a mirror-image, a microcosm of the world at large. Rich whites in South Africa represented 15 per cent of the population, yet held 75 per cent of the wealth.

34. In conclusion, it was to be hoped that the Special Rapporteur would be able to visit South Africa and judge the situation for herself.

35. Mrs. WARZAZI, speaking on agenda item 5 (a), noted that racism had been on the agenda of the United Nations ever since its inception. Despite the manifold and growing efforts that had been made over the years by the international community to eradicate racism, one had the impression that the world had not evolved since 1945 and that peoples, communities and individuals arrogated to themselves the right to be superior and to act as such. Today's form of racism did not even take the trouble to conceal the hatred which motivated it and the violence it engendered.

36. The racism, xenophobia and intolerance which had broken out, particularly in Europe, presented real problems, given their overt nationalism, their refusal to accept the process of integration advocated by the international community, and their questioning of the principles of equality, peaceful coexistence, solidarity and justice. Today, racist groups and even political parties were doing their utmost to incite hatred of foreigners. The media were joining in and making foreigners scapegoats for all of society's problems. The sacrosanct character accorded by some Governments to freedom of expression and assembly had given fresh impetus to the activities of neo-nazi groups, the Ku Klux Klan and other organizations. Physical violence against and even the murder of foreigners and migrant workers often went unpunished as the authorities turned a blind eye. On occasion, members of the police attacked migrant workers with impunity. Many Governments, probably inadvertently, were taking measures against foreigners which fostered and entrenched racism and xenophobia.

37. Unquestionably, the economic situation of the countries to which migrant workers moved in search of a living might legitimately prompt their Governments to regulate the flow of immigrants. It should be borne in mind, however, that those workers often left their own country against their will because of the desperate state of its economy due mainly to the plundering of its resources, the inhuman conditions forced upon them as a result of the international economic order or the collapse of regimes which catered only for the well-being of the nomenklatura. The iron curtain had disappeared in Europe, but a new wall of isolation and egoism, built of laws, decrees and police measures was appearing.

38. She was happy that the World Conference on Human Rights had supported the proposal made by the Sub-Commission and adopted by the Commission concerning the appointment of a thematic special rapporteur to address the issue of contemporary forms of racism, racial discrimination and xenophobia that occurred in any part of the world. She hoped that the Special Rapporteur would focus specially on what was happening in Europe, the United States of America and Australia since the information collected in those countries indicated that the substance of racism had undergone a transformation which made it attractive to populations that refused to coexist in harmony with communities or individuals of a different origin. For example, Winston Churchill Junior, the grandson of the former Prime Minister of the United Kingdom, had recently called for a halt to what he described as the uninterrupted flow of immigrants in order, as he put it, to preserve the British way of life.

39. The Special Rapporteur would make recommendations, but they would have to be implemented and since the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families aroused no enthusiasm among host countries, the Commission on Human Rights would have to establish a mechanism which would induce those countries not only to strengthen their laws against racism but to implement them in a genuine manner.

40. Thus far, the procedures and mechanisms established by the international community had compelled the small countries, i.e. those belonging to the third world, to respond to allegations of human rights violations on their

territory. It would seem that the 1503 procedure applied only to them. It was time for the major countries to come into line in order to give explanations about the horrors that were taking place on their territories and the measures that they should put into effect to ensure that foreigners would be protected against those politicians who used racism and nationalism for political ends, against racist and terrorist groups, and against officials in the police, the administration and even the judicial system.

41. Mr. YIMER, speaking on agenda item 5 (b), said that it was encouraging to note that the Sub-Commission and, in particular, the special rapporteurs had over the years contributed to the changes which had taken place in South Africa. The preliminary report (E/CN.4/Sub.2/1993/11) provided a firm basis on which the Sub-Commission could continue its work.

42. As had been pointed out in the report, the climate of violence was a major threat to the transition to democracy in South Africa and to the full enjoyment by all South Africans of human rights and fundamental freedoms. The statement in paragraph 89 of the report that the process of change through peaceful negotiation remained "fragile" was something of an understatement.

43. Paragraph 90 (f) quite rightly stated the need for "tolerance, cooperation and compromise" in the transitional process. It was also essential, as mentioned in paragraph 90 (h) that, prior to the election scheduled for April 1994, sections of the population, voting for the first time, should be educated in how to exercise democratic rights. It was to be hoped that the Special Rapporteur would have an opportunity to visit South Africa to enable her to monitor developments, particularly after the elections. Her next report would be a particularly important one for the Sub-Commission.

44. Mrs. DAES said, in connection with General Assembly resolution 47/80 entitled "Ethnic cleansing and racial hatred", that the Sub-Commission must be resolute in condemning the odious policy and practice of ethnic cleansing which had made victims of hundreds of thousands of people on the basis of their religion or national origin. The extent of the violence, its intention and the fact that it was targeted along ethnic and religious lines raised the question of whether the crime of genocide was being committed. In his report on the human rights situation in the former Yugoslavia (A/47/635, S/24766) the Special Rapporteur of the Commission on Human Rights had expressed the view that the principal objective of the military conflict in Bosnia and Herzegovina was the establishment of ethnically-homogeneous regions. Ethnic cleansing did not appear to be the consequence of the war, but rather its goal. That goal, to an extent, had already been achieved. The methods used to reach that end varied according to time and place. Killings, beatings, rape and the destruction of houses had created a climate of fear and intimidation which meant that "ethnic cleansing" did not always have to be carried out at gunpoint. Furthermore, although such atrocities were being committed on a wide scale in Bosnia and Herzegovina there were also documented cases of ethnic cleansing in the province of Vojvodina.

45. For the aforementioned reasons the abhorrent policy and practice of "ethnic cleansing" should be considered among the acts defined as genocide by the Convention on the Prevention and Punishment of the Crime of Genocide.

Article II, paragraph (c), of the Convention was particularly relevant in that connection. The instigators and perpetrators of that new type of crime of genocide must be effectively punished.

46. There had been an alarming number of allegations of the widespread occurrence of rape, particularly in the context of the conflict in Bosnia and Herzegovina. Many observers and in particular the European Community's investigating mission held the view that rape was one of the methods used to carry out "ethnic cleansing" and could not be considered in isolation from the other atrocities which were a feature of the armed conflict in the former Yugoslavia. The violations of human rights and international humanitarian law together with all those people, in particular women and children, who were the victims of the new types of crimes against humanity must continue to be the object of great concern by the international community.

47. With regard to the partition of Bosnia and Herzegovina, it should be pointed out that the partition of any country without the express consent of its people and as the result of an armed conflict and military occupation was contrary to the rules of international law and should be rejected.

48. Turning to the excellent and comprehensive preliminary report on monitoring the transition to democracy in South Africa (E/CN.4/Sub.2/1993/11) she expressed her support in particular of the conclusions and recommendations and her appreciation of the up-to-the-minute analysis of the obstacles preventing the democratization of South Africa and ways and means of eliminating them.

49. Through the Chairman, she requested the Secretary-General to furnish the Special Rapporteur with all the assistance necessary for her to accomplish her work, which constituted a valuable contribution to the establishment of a genuine democracy in South Africa.

50. Mr. Yimer took the Chair.

51. Mr. GUISSE said that it was important to limit violence in the transition phase in South Africa. Since the date for elections had been set, extremists had increasingly been expressing themselves through massacres and assassinations.

52. He endorsed the recommendations made in the preliminary report and said that it was important to develop a culture of peace in South Africa so as to encourage mutual understanding between the races, which might be achieved through education, sport and similar activities. The relevant authorities should be requested to ensure that international and national standards were put into practice and human rights instruments implemented as a priority. It was particularly important that in the spheres of justice, health and the Civil Service, which had all consolidated apartheid, there should be a commitment to the process of peace and democracy. There must be objective, honest and thorough investigations into massive human rights violations and those found guilty of them should be punished appropriately. There must be no impunity for such people. All South Africans, regardless of race, should be able to benefit from the provisions of International Labour Organisation instruments to achieve a minimum of equality of race and gender, although it

would only be when every citizen had the right to vote that there could be talk of genuine equality. It was imperative that elections took place, since on them rested the survival of a people. Apartheid had developed over a century but it should not take a century to dismantle it.

53. Mr. Al-Khasawneh resumed the Chair.

54. Mr. JOINET said that the preliminary report was particularly important since it demonstrated the Sub-Commission's concern to keep abreast of what was going on in the world, and also because it was the first time that the Sub-Commission had on its own initiative attempted to monitor a transition to democracy.

55. On behalf of the French anti-apartheid non-governmental organizations, he wished to thank Mr. Khalifa for his reports on South Africa which had been crucial to the assessment of the situation in that country.

56. The parts of the preliminary report on institutional reforms, the phenomenon of violence and the efforts to combat impunity were particularly interesting, with the information they provided on the bringing under control of the intelligence services, the police and the armed forces. He would be including that information in the report he was drafting with Mr. Guissé on the subject of impunity. They would greatly appreciate the assistance of the Special Rapporteur on South Africa in doing so.

57. In connection with the former Yugoslavia, he welcomed the unprecedented step taken by the Commission on Human Rights in pooling the experience of the thematic Special Rapporteurs so as to make a team with the Special Rapporteur.

58. Although judges were being nominated to a war crimes tribunal, the tribunal itself would not actually begin proceedings unless a great deal of pressure was applied and the Sub-Commission should contribute to that pressure. The tribunal would determine the responsibility of all parties to the conflict since it should be remembered that although the Serbs bore considerable responsibility others were also guilty of atrocities.

59. Mrs. Warzazi had been correct to welcome the Commission's initiative to strengthen the fight against racism. However there seemed to be no real enthusiasm among member States for the International Convention on the Protection of the Rights of All Migrant Workers and Their Families. Since they tended to ratify human rights instruments only when pressured to do so, it would be appropriate for the Commission to act as a lever to encourage ratification.

60. Mrs. PALLEY said that Mr. Khalifa had been right in the past to believe in a conspiracy theory concerning the relationship between the Government of South Africa and the Inkatha Freedom Party (IFP), but that there had been a major political realignment recently, the white community was split and many whites considered President De Klerk to be a traitor because of his relationship with the African National Congress (ANC) and Mr. Mandela. The international community had however been too blind over the previous 30 years to divisions within the black community. Tribalism was not a construct of imperialism, part of the strategy to divide and rule. Tribal feelings had

only been broken down to a limited extent by urbanization. Although it would be a generalization to state that all Zulus were militaristic, it was true that Zulu society was traditionally militaristic and xenophobic. A parallel could be drawn between them and the Serbs. The international community should encourage President De Klerk and the ANC to consider a loose federation with Zululand since a unitary State would probably lead to a conflict as bloody as that taking place in Bosnia and Herzegovina. There was no time to be idealistic about education and tolerance. The ANC must be asked to be generous since it had financial might and control over the levers of power. If the international community did not act it would share responsibility for the resultant carnage.

61. Mrs. CHAVEZ thanked Mrs. Attah for her model preliminary report (E/CN.4/Sub.2/1993/11), which contained a fair and candid examination of the complex situation in South Africa as that country moved towards democracy, as well as Mrs. Palley for her erudite statement, rich in personal experience. Mrs. Attah's recommendations, especially those in paragraph 91, had her support. The transition would be difficult and would require the attention of the international community if it was to be successful. For example, Archbishop Tutu had suggested that without international help security in South Africa might not be attainable. The Sub-Commission thus had an obligation to continue its monitoring of the situation. She hoped that Mrs. Attah would be able to visit South Africa and that the Sub-Commission and the Secretariat would give her the necessary support.

62. Mrs. WARZAZI thanked the Special Rapporteur for having taken over so successfully from her predecessor, Mr. Khalifa, who, in the course of his mandate, had made a substantial contribution to the mobilization of public opinion in order to bring pressure to bear on Governments and multinational corporations to induce them to implement the General Assembly and Security Council resolutions on South Africa.

63. The challenge facing Mrs. Attah was considerable, since to turn South Africa into a viable country within the international community while assuring peace, security, equality, democracy and the peaceful coexistence of all citizens through the total elimination of apartheid was by no means easy. Over 100 years of discrimination, exploitation, repression and racial arrogance could not be erased overnight. Time, the goodwill of all parties and a deep conviction as to the future of a democratic and multiracial South Africa were needed. The Special Rapporteur was therefore to be congratulated on having successfully initiated a new phase in the Sub-Commission's campaign for the respect of human rights in South Africa. Consultations with the major protagonists in South Africa would have been desirable, but the Special Rapporteur still had plenty of time and that small shortcoming would presumably be made good in her next report. It would be ideal if she could be in South Africa during the election period.

64. The report covered the period from February 1990, when the prohibition on opposition parties had been lifted, to May 1993. Emphasis was rightly laid on political rights and on the establishment of the Convention for a Democratic South Africa (CODESA). The latter had experienced a number of ups and downs until quite recently. Its work was not easy, but it had to be acknowledged that, thanks to the wisdom of the leaders of the parties to the negotiations,

positive results had been obtained and some of the problems mentioned in the report had been resolved. One example of the progress made had been the submission of a draft constitution to the peace negotiators on 26 July 1993. The committee of experts which had drafted it had given an important place to federalism, under which autonomy and real powers would be granted to the States, provinces or regions of the new South Africa, under the surveillance of the central Parliament.

65. Nevertheless, the draft constitution was posing problems, and some protagonists were brandishing the threat of civil war, which was certainly a bad omen for the future, particularly when no solution had yet been found to the problem of violence. In fact, according to a report by a Commonwealth committee of inquiry, South Africa was the most violent country in the world. The Special Rapporteur had given abundant information on the violence, its victims, its perpetrators and the main reasons leading to it. In the light of that information it was clear that the Government was responsible, for two reasons: firstly because certain elements in the police and army were behind the violence or were doing nothing to prevent it, and secondly because the Government had an obligation to ensure the security and peace of the population and to protect it against any form of violence, even if it was committed by clans or partisans of ANC and IFP. However, it could not be concluded that the Government had done nothing, since commissions of inquiry had been set up and corrective measures had been taken. It was distressing that, at such a crucial stage in South Africa's history, movements which had in the past combated apartheid were now fighting one another, much to the delight of white extremists, for the purpose of securing a political base in specific geographical areas. All violence emanating from officials or from clans and political adversaries was to be condemned.

66. According to the report, the socio-economic inequalities inherited from apartheid were the fundamental cause of the violence. That problem had to be solved, and it would be up to Parliament to take appropriate measures to secure respect for the economic, social and cultural rights of all citizens. It was not, however, certain that the removal of such inequalities would put an end to the violence, as many examples from the African continent had shown. The Special Rapporteur should therefore give special consideration to violence of an ethnic or tribal origin. If human rights were to be promoted, it was essential for people to shoulder their responsibilities, for example by working for a compromise between different groups in their society. In any case, the international community should give its full support to the democratization of South Africa, and she supported all the Special Rapporteur's recommendations. It was, moreover, essential that all political leaders should fully share that ideal and make their own specific contributions.

67. The CHAIRMAN drew attention to the preliminary draft on Bosnia and Herzegovina prepared by Mr. Eide, which had just been distributed.

68. Mr. EIDE, introducing the preliminary draft, said that the main point was that the intended partition of Bosnia and Herzegovina was a confirmation of massive violations of human rights. To endorse such a partition would amount to condoning those violations, and the establishment of a system based on ethnic purity would have effects contrary to the purpose of the Universal

Declaration of Human Rights, not only for Bosnia and Herzegovina but also for civilization as a whole. The Sub-Commission, as a human rights body, could not condone the results of ethnic cleansing or an arrangement based on that notion - a kind of enforced "Bantustanization" - to which one of the parties was agreeing under extreme duress. In the prevailing circumstances, the agreement envisaged was not based on free and informed consent.

69. Mr. CHERNICHENKO said that the preliminary draft represented a danger that the Sub-Commission, by interfering in purely political issues, might be encroaching on an area under the jurisdiction of the Security Council. The establishment of a federation of Bosnia and Herzegovina was a purely political matter. If the parties to the conflict voluntarily arrived at a solution involving partition along ethnic or religious lines, that was permissible. The reasons for advocating the continuation of Bosnia and Herzegovina as a unified State could also have applied to the former Yugoslavia as a whole or to the former USSR, where ethnic divisions had led to the collapse of the unified State. The adoption of such a position with regard to Bosnia and Herzegovina would only worsen the conflict. What was needed was to work towards a cease-fire, even though all previous cease-fires had been violated. Policing was a problem for the Security Council. Given the political nature of the issue, the Sub-Commission should stress the need to stop violations of human rights and leave the rest to the Security Council.

70. Mrs. WARZAZI said that what was involved was not politics but sacred principles that could not be changed from one day to another, even if the Security Council had done so with regard to Bosnia and Herzegovina for political reasons. The General Assembly, however, had not changed its position, calling for the preservation of the territorial integrity of Bosnia and Herzegovina. The Government of Bosnia and Herzegovina had been under extreme pressure and had not voluntarily come to any agreement. To continue the present trend would lead to an endless chain of conflicts elsewhere. If Mr. Chernichenko had difficulty in accepting the draft, considering that it ran counter to Security Council decisions, the Sub-Commission could proceed to a vote.

71. Mr. JOINET said that he was not so much troubled by the possible political nature of the draft. What worried him most was the refusal to accept any solution not based on ethnic cleansing. A very important principle was involved. He therefore wished to add a final paragraph reading:

> "If those responsible politically should persist in their refusal to accept any solution not based on ethnic purification or ethnic partition, that would be a further reason for convening promptly the international tribunal which the Security Council decided to establish in its resolution 808/1993".

72. The CHAIRMAN announced that, in view of the time, the discussion would be continued at the next meeting.

The meeting rose at 1 p.m.